

REMARKS

This communication is a full and timely response to the non-final Office Action dated November 21, 2008. Claims 1-5 and 7-25 remain pending, where claims 6 and 26-28 were previously canceled. By this communication, claims 1, 5, 8, 9, and 19-25 are amended. Support for the amended subject matter can be found, for example, at page 4, lines 17-22; page 5, lines 11-17; and in the paragraph bridging pages 8 and 9 of the disclosure.

Claim Objections

On page 2 of the Office Action, claim 8 stands objected to for alleged informalities. In response, Applicant has amended claim 8 in a manner that renders this objection moot. Withdrawal of this rejection, therefore, is respectfully requested.

Rejections Under 35 U.S.C. §103

Beginning on page 3 of the Office Action, Applicants claims are variously rejected under 35 U.S.C. §103. In particular, claims 1-3 stand rejected for alleged unpatentability over *Young et al.* (US 2002/0065774) in view of *Gallagher et al.* (US 2004/0111367); claims 5, 7, 8, 11, and 13-18 are rejected for alleged unpatentability over *Young* in view of *Liu et al.* (US 2003/0101134); and claim 19 is rejected for alleged unpatentability over *Young* in view of *Maes* (WO/99/08238). Applicant respectfully traverses these rejections.

As provided in Applicant's disclosure, an exemplary system for facilitating validation of financial transactions over a wireless telephony network is described. In the system each subscriber is has a mobile handset or device connectable to the wireless network that is configured with Mobile Transaction Management Software

(MTMS). The MTMS enables the subscribers to execute financial transactions over the network using a transaction processing platform (TPP). A financial transaction account (FTA) is a wireless phone account that is associated with the mobile phone of a subscriber. The FTA number of a subscriber can be printed in barcode format on a sticker affixed to the mobile handset, or stored in the memory of a contactless electronic chip that is affixed on or in a subscriber's handset, or stored in memory of the subscriber identity module (SIM) card of the subscriber's handset. As is known in the art, the SIM card is a smart card that can store an identification number of the issuer and data that identifies a subscriber's account number, which is an account number that enables the subscriber to access the wireless network.

Applicant's claims broadly encompass the foregoing features. For example, independent claim 1 recites, in part, sending a payment from a payer's wireless phone account through a mobile telephony communication device via said wireless telephony network to a transaction processing platform connected to said wireless telephony network; and crediting said payment to a wireless phone account of a payee. Applicant notes that claim 1 is broadly representative of the features recited in independent claims 5 and 19.

With respect to claim 1 and contrary to the Examiner's assertions, the combination of *Young* and *Gallagher* fail to establish a *prima facie* case of obviousness.

Young discloses a system having an electronic mall. See *Young*, pgph [0035]. The electronic mall is accessed through an electronic transaction portal that comprises web pages that are viewable on the display screen of a mobile telephone, interactive content, and communication software. See *Id.* Plural merchant websites

are accessible via the portal. *See* *Id.* Each subscriber uses a mobile telephone to communicate with the portal through a transaction portal server. *See* *Id.*, pgph [0034]. The mobile telephone includes the hardware and software necessary to access, receive, and browse content from the Internet. *See* *Id.*, pgph [0033]. The server communicates with an electronic wallet server that includes an electronic wallet associated with a respective user. *See* pgph [0037] The electronic wallet server is in communication via the Internet with one or more credit card issuers identified by the user in the electronic wallet. *See* pgph [0037]. Through this system the user is capable of purchasing products viewed over the Internet in the electronic mall using a credit card identified in an electronic wallet associated with the user.

Claims 1-3

Regarding independent claim 1, the PTO acknowledges that *Young* fails to disclose or suggest Applicant's claimed feature of sending a request for approval of said payment from said transaction processing platform via said wireless telephony network to a mobile telephony communication device of the payee when said payment to the payee is initiated by the payer, and relies on *Gallagher* in an effort to remedy this deficiency. Applicant's respectfully submit, however, that because *Young* requires the transactions to be conducted over an Internet-based network, this reference does not disclose or suggest Applicant's claimed sending a payment from a payer's wireless phone account through a mobile telephony communication device via said wireless telephony network to a transaction processing platform connected to said wireless telephony network; and crediting said payment to a wireless phone account of a payee, as recited in claim 1.

As discussed in Applicant's previous response, *Gallagher* discloses a system and method for executing online financial transactions between individuals through accounts held at each individual's respective bank, or between individuals and entities such as banks, merchants, and other companies. In the communication network, client devices are coupled through the Internet to fund exchange servers and other servers. *Gallagher*, pg. 3, paragraph [0023]. Each client device may be a desktop personal computer, workstation, cellular telephone, personal digital assistant (PDA), laptop, or any other device capable of interfacing directly or indirectly with the Internet. *Id.*, pg. 3, paragraph [0024]. Each user accesses a fund exchange server to establish an online account, which is used to transfer funds to and from other entities' online accounts.

While *Gallagher* indicates that client devices can be cellular telephones or PDAs, the described concept requires that these devices are "capable of interfacing directly or indirectly with the Internet." In other words, one of ordinary skill would understand that a transaction cannot be executed unless the user's device is communicable over the Internet.

In stark contrast, the claimed embodiments enable financial transactions to be conducted over a wireless telephony network, e.g., a cellular telephone network (See page 1 of the specification, for example, in which the description of the background of the present application make references to networks based upon the GSM and CDMA standards). Based on the guidance provided in Applicant's disclosure and the knowledge attributable to one of ordinary skill, the differences between communication over a wireless telephony network and a wireless Internet-based network are readily ascertainable. As such, one of ordinary skill would understand

that in the context of Applicant's claimed embodiment an Internet communications network is not easily substitutable for a wireless telephony network or vice versa.

In summary, *Young* and *Gallagher* when applied individually or collectively fail to disclose or suggest every feature and/or the combination of features recited in Applicant's claims. Accordingly a *prima facie* case of obviousness has not been established.

Claims 5, 7, 8, 11, and 13-18

Concerning independent claim 5 and contrary to the Examiner's assertions, the combination of *Young* and *Liu* fail to establish a *prima facie* case of obviousness. On page 5 of the Office Action, the Examiner acknowledges *Young* fails to disclose or suggest Applicant's claimed implementing feature, and relies on *Liu* in an effort to remedy this deficiency. As discussed above, however, because *Young* requires the transactions to be conducted over an Internet-based network, as opposed to Applicant's claimed wireless telephony network, this reference does not and cannot reasonably be considered to disclose or suggest sending a payment from a first wireless phone account through a mobile telephony communication device via said wireless telephony network to a transaction processing platform connected to said wireless telephony network; and crediting said payment to a second wireless phone account associated with a mobile telephony communication device of a subscriber of a financial transaction service provided through said transaction processing platform, as recited in claim 5.

As noted in a previous response, *Liu* discloses a general method and system for transaction approval, outside of the specific context of direct payment transactions between mobile phones in a wireless telephone network. In *Liu*, the

transaction approval is handled by a clearing agency or bank (*See Liu*, Figure 2, ref. 202), as opposed to being issued directly by the payee as claimed and described in the present application. Most notably, this reference discloses that relevant account information is stored in a database of the clearing agency. The database including a denial list associated with credit cards and a PIN list associated with ATM and debit cards. Accordingly, it is respectfully submitted that *Liu* likewise does not disclose the subject matter recited in the subject claims, since it also fails to disclose a system in which financial transactions are conducted using wireless phone accounts as recited in Applicant's claim, as opposed to accounts established at financial institutions (e.g., bank accounts).

In summary, *Young* and *Liu* when applied individually or collectively fail to disclose or suggest every feature and/or the combination of features recited in Applicant's claims. Accordingly a *prima facie* case of obviousness has not been established.

Claim 19

Regarding independent claim 19, Applicant respectfully submits that the combination of *Young* and *Maes* fails to establish a *prima facie* case of obviousness.

Beginning on page 10 of the Office Action, the Examiner acknowledges *Young* fails to disclose or suggest Applicant's claimed reading feature, and relies on *Maes* in an effort to remedy this deficiency. As discussed above, however, because *Young* requires the transactions to be conducted over an Internet-based network, as opposed to Applicant's claimed wireless telephony network, this reference does not and cannot reasonably be considered to disclose or suggest sending a payment identified by a wireless phone account number of a first subscriber from a mobile

telephony communication device of said first subscriber via said wireless telephony network to a transaction processing platform connected to said wireless telephony network; and crediting said payment to a wireless phone account associated with a mobile telephony communication device of a second subscriber of a financial transaction service provided through said transaction processing platform, as recited in claim 19.

Maes is directed to a portable client PDA device having a touch screen or other user interface, and a microphone for processing voice commands and biometric data for user verification. The PDA includes a Universal Card having a unique imprint, such as a credit card, ATM card, and/or debit card provided by a service provider, on which selected financial or personal information stored in the PDA can be downloaded to perform certain consumer transactions. See Maes, Abstract; pg. 2, lines 34-40.

Maes, however, does not disclose or suggest sending a payment identified by a wireless phone account number of a first subscriber from a mobile telephony communication device of said first subscriber via said wireless telephony network to a transaction processing platform connected to said wireless telephony network; and crediting said payment to a wireless phone account associated with a mobile telephony communication device of a second subscriber of a financial transaction service provided through said transaction processing platform. Moreover, there appears to be no nexus between *Maes* (wireless communication) and *Young* (Internet-based communication) such that the two concepts can be reasonably combined to achieve Applicant's claimed results.

In summary, *Young* and *Maes* when applied individually or collectively fail to disclose or suggest every feature and/or the combination of features recited in Applicant's claims. Accordingly a *prima facie* case of obviousness has not been established.

The Office is reminded that it has the initial burden of establishing a **factual basis** to support the legal conclusion of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). For rejections under 35 U.S.C. § 103(a) based upon a combination of prior art elements, in *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007), the Supreme Court stated that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some **articulated reasoning with some rational underpinning** to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) (emphasis added). For at least the foregoing reasons, withdrawal of the above-listed rejections is respectfully requested.

Applicant's remaining claims were also variously rejected under 35 U.S.C. §103. For example, claim 4 is rejected for alleged unpatentability over *Young* in view of *Gallagher* and further in view of *Grunbok, Jr. et al.* (US 6,305,603); Claims 9, 10, and 12 are rejected for alleged unpatentability over *Young* in view of *Liu* and further in view of *Shore* (US 2003/149662); claim 20 stands rejected for alleged unpatentability over *Young* in view of *Maes* and further in view of *Hawkes* (Designing Secure Systems); claim 21 is rejected for allegedly being unpatentable over *Young*

in view of *Maes* and further in view of *Um* (WO 03/023674); and claims 22 and 25 are rejected for alleged unpatentability over *Young* in view of *Maes* and further in view of *Gurnbok, Jr. et al.* (US 6305603). Applicant respectfully traverses these rejections.

Because these claims variously depend from one of independent claims 1, 5, and 19, where applicable, and the additional secondary references (*Grunbok*, *Shore*, *Hawkes*, and *Um*) fail to remedy the deficiencies of the combined primary references, Applicant respectfully submits these claims are distinguishable over the combined references by virtue of their respective dependencies. Accordingly, withdrawal of these rejections is also respectfully requested.

Conclusion

Based on the foregoing amendments and remarks, Applicant has addressed all objections and rejections in the Office Action. Accordingly, claims 1-5 and 7-25 are deemed allowable and this application is respectfully deemed to be in condition for allowance. In the event any unresolved issues remain, the Examiner is invited to contact the undersigned.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: May 21, 2009

By: /Shawn B. Cage/
Shawn B. Cage
Registration No. 51522

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620